IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.499 of 2003.

Date of Decision: May 3,2007.

H.P.T.D.C. …Petitioner.

-versus-

Roshan Lal and another. …Respondents.

Coram:

The Hon'ble Mr. Rajiv Sharma, Judge.

Whether approved for reporting?

For the Petitioner. : Mrs. Ranjana Parma, Advocate.
For Respondent No.1. : Mr. C.N. Singh, Advocate.

Rajiv Sharma, J. (oral):

The workman aggrieved by his retrenchment in violation of Section 25 of the Industrial Disputes Act, 1947 (hereinafter referred to as '**the Act**') approached the Labour Officer concerned. After the failure report, a reference was made by the Government to the Labour Court to the following effect:-

> **"Whether the termination of service of Shri Roshan Lal by the Managing Director, Himachal Pradesh Tourism Development Corporation, Shimla is legal or illegal? If it is illegal then to what relief and compensation Shri Roshan Lal is entitled ?"**

The workman also filed a claim petition before the Labour Court stating therein that he had completed 240 days preceding date of his retrenchment and conditions of service were altered to his disadvantage in violation of Section 9(A) of the Act. The Labour Court has passed the award on 27.12.2002.

Whether reporters of Local Papers may be allowed to see the Judgment?

Before the Labour Court, admitted facts were that the respondent-workman was engaged as Waiter on daily wages by the petitioner-Corporation with effect from 2.11.1992 to 15.7.1993 and thereafter as part time waiter and he worked in that capacity up to 9.4.1996. It was also admitted case before the Labour Court of the parties that no notice or retrenchment compensation was given to the workman before dispensing with his service w.e.f. 9.4.1996. Accordingly, the Labour Court had come to a definite conclusion that the petitioner had completed 240 days continuous service preceding his date of retrenchment, i.e. 9.4.1996 and no notice, as stipulated under Section 25-F of the Industrial Disputes Act, 1947 was issued. Thus, rendering the retrenchment of the workman is illegal and unjustified.

Mrs. Ranjana Parmar has assailed the award only on the ground that the appointment of workman was seasonal thus, the provisions of Section 25 -F of the Act were not attracted.

Mr. Chandernarayan Singh for the workman has supported the award.

I have perused the Award carefully and as per the admitted facts, the workman was engaged w.e.f. 2.11.1992 and he worked in the capacity of Waiter on daily wages up to 9.4.1996. The Labour Court had come to definite conclusion that on the basis of man-days chart, the petitioner had worked for 240 days at the relevant time. The petitioner-corporation has not placed any material before the Labour Court to substantiate its plea that the appointment of the workman was seasonal to the contrary the findings returned by the Labour Court are that the workman had completed 240 days at the relevant time. There is no illegality or jurisdictional error in the award dated 27.12.2002 and the same is upheld. Consequently the writ petition is dismissed.

The interim order dated 25.6.2004 is vacated. The petitioner-Corporation is directed to implement the award dated 27.12.2002 within a period of three weeks from today.

(Rajiv Sharma)
Judge.

May 3, 2007.
(Gandhi)